

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

**JOE DALE MARITNEZ AND
FIDENCIO LOPEZ, JR. Individually
And on behalf of all others similarly
Situated;**

V.

**REFINERY TERMINAL FIRE
COMPANY**

Civil Action No. 2:11-cv-295

JURY TRIAL DEMAND

**COLLECTIVE ACTION
PURSUANT TO 29 2.S.C.§216(b)**

**DEFENDANT'S SUPPLEMENTAL RESPONSE TO PLAINTIFFS' REPLY TO
DEFENDANT'S RESPONSE TO MOTION FOR CERTIFICATION OF
COLLECTIVE ACTION AND REQUEST FOR NOTICE TO POTENTIAL PLAINTIFFS**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Defendant, Refinery Terminal Fire Company, and files its Supplemental Response to Plaintiffs' Reply to Defendant's Response to Motion for Certification of Collective Action and Request for Notice to Potential Plaintiffs, and would respectfully show this Court as follows:

1. Based on Plaintiffs' Reply, Defendant wishes to clarify that nothing in Defendant's Response should be interpreted as indicating that Mr. Sico or any other counsel violated any ethical standard or engaged in any inappropriate conduct. Rather the portion of Defendant's response cited emphasizes the success of the efforts taken to obtain participation of possible plaintiffs without notice. See *Villarrreal vs. St. Luke's Hospital*, 751 F.Supp.2d 902, 915-916 (S.D. Tex. 2010) (whether there is evidence that there are other potential members who desire to opt-in is a factor in determining to certify class).

2. This suit is well publicized and it is unlikely that any potential plaintiff is not aware of their ability to join this suit.

WHEREFORE, PREMISES CONSIDERED, Defendant requests the Court deny or modify the proposed notice as outlined in Defendant's response, and grant Defendant such other and further relief to which it may be entitled.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANT
REFINERY TERMINAL FIRE COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was forwarded to counsel of record as indicated below on this 20th day of January , 2012.

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